

Exhibit 56

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERMÈS INTERNATIONAL and)
HERMÈS OF PARIS INC.,)
)
Plaintiffs,)
)
vs.) No.
) 1:22-CV-00384-JSR
MASON ROTHSCHILD,)
)
Defendant.)
-----)

September 23, 2022
9:32 a.m.

Deposition of BLAKE GOPNIK, held at the
offices of Baker & Hostetler LLP, 45
Rockefeller Plaza, New York, New York,
pursuant to subpoena, before Laurie A.
Collins, a Registered Professional Reporter
and Notary Public of the State of New York.

1 Gopnik

2 and then counsel may proceed.

3 B L A K E G O P N I K ,

4 called as a witness, having been duly sworn

5 by the notary public, was examined and

6 testified as follows:

7 EXAMINATION BY

8 MR. FERGUSON:

9 Q. Good morning. Can you please state
10 your full name for the record? 09:34:13

11 A. Blake Gopnik.

12 Q. Dr. Gopnik, have you been deposed
13 before?

14 A. No.

15 Q. Have you ever testified in court 09:34:23
16 before?

17 A. No.

18 Q. Do you have an understanding of what's
19 going to be taking place at this deposition today?

20 A. I believe I do. 09:34:33

21 Q. And is that understanding based on
22 information provided to you in conversation with
23 the counsel representing you today?

24 A. Yes.

25 Q. I'm just going to review a few ground 09:34:44

1 Gopnik

2 A. Not for a layman, just as I wouldn't be
3 able to tell a knowledgeable sports reporter from
4 one who isn't knowledgeable.

5 Q. Are there any objective criteria that 12:07:53
6 can be used to distinguish a knowledgeable art
7 critic from an ignorant art critic?

8 A. I think if you looked at the course of
9 their career and saw if they were -- held
10 interesting, complex views about art, you'd say, 12:08:08
11 yes, this person is interesting and this other
12 person uses clichés, et cetera, and therefore is
13 not interesting.

14 (Discussion off the record.)

15 Q. Are you aware of any consensus among 12:08:57
16 art critics that the images in NFTs produced and
17 sold by Mason Rothschild find their natural and
18 obvious home among the artistic experience carried
19 out by modern artists over the last century?

20 A. There is no consensus among art critics 12:09:15
21 on pretty much any issue. For instance, I find
22 the Mona Lisa a fairly trivial object, and most
23 art critics would disagree with me.

24 Q. Referring to page 5, paragraph 11. The
25 first sentence begins, By the end of the 1960s, 12:10:02

1 Gopnik

2 A. I hope so.

3 Q. Does that definition appear in any
4 texts that you consider authoritative?

5 MR. SPRIGMAN: Objection. 01:18:58

6 A. I have to admit it has never occurred
7 to me to look for a definition of art in an
8 authoritative text. I've been studying art for 25
9 years, and I feel that I have enough experience to
10 understand it. It is extremely difficult to 01:19:10
11 understand, so everyone will have to arrive at a
12 definition that makes sense, because it's such a
13 thorny question.

14 Q. Have you ever heard the expression "art
15 is in the eye of the beholder"? 01:19:24

16 A. One of the sillier expressions I've
17 ever heard.

18 Q. I think I know the answer to this
19 question. Do you agree with that statement?

20 A. That art is in the eyes of the 01:19:36
21 beholder?

22 Q. Art is in the eye of the beholder.

23 A. I think it's a meaningless statement,
24 so I can't agree or disagree with it. I'm not
25 sure what it means. 01:19:47

1 Gopnik

2 Q. In your experience do different people
3 have different views of what they consider to be
4 art?

5 MR. SPRIGMAN: Objection. 01:20:04

6 A. Yes, absolutely. In the general
7 community, that's certainly true.

8 Q. Could you elaborate on what you meant
9 by "general community" in your last answer?

10 A. I was just trying to clarify my answer, 01:20:20
11 that I can't speak for every single human being on
12 the planet, and I'm fairly certain that there is
13 nothing in the world that everyone agrees on. And
14 one of the things that they might not agree about
15 are art. 01:20:33

16 Q. If two art critics disagree whether a
17 particular item is art, is there an agreed-upon
18 method in the art criticism profession for
19 resolving that dispute?

20 A. No. I think most sophisticated art 01:20:58
21 critics would think it was probably irresolvable.

22 Q. Do you have a definition of business
23 art?

24 A. Yes.

25 Q. What is your definition of business 01:21:19

1 Gopnik

2 art?

3 A. Business art is art that engages
4 directly and powerfully with -- for want of a
5 better word, with business, with commerce, with a 01:21:31
6 wide range of activities that on the face of it
7 normally might seem as being essentially about
8 finances and commodities but in fact when
9 introduced into the discourse of art seem to have
10 a richer set of resonances. It's a way of using 01:21:46
11 art to look at the world of finance and business
12 by participating in it to a certain extent.

13 I'm sorry, it's a long-winded answer.

14 Q. Are there times when people participate
15 in the world of finance and business and they're 01:22:04
16 not engaging in business art?

17 A. Yes.

18 Q. How can you tell whether someone is
19 engaging in business art or not?

20 A. Through a larger set of contextual 01:22:16
21 clues that tell you, oh, this might be worth
22 looking at as an artistic activity; for instance,
23 in the case of Andy Warhol, because he's generally
24 regarded as an artist and presents himself as an
25 artist. 01:22:32

1 Gopnik

2 Q. What are other contextual clues that
3 let you know that business or financial activity
4 is in fact business art?

5 A. I'd put it the other way around. There 01:22:51
6 are often cues that tell you that there's
7 something that reminds you of art in this activity
8 that might otherwise seem to be business.

9 It goes both ways. There are things
10 that seem at first glance to be art but then have 01:23:03
11 a business component and things that have a
12 business -- seem essentially business that then
13 have an artistic component.

14 Either way you can be in the face
15 business art. 01:23:17

16 Q. Is the definition of business art that
17 you've provided generally accepted among art
18 critics?

19 MR. SPRIGMAN: Objection.

20 A. My definition was so, I'm sorry, but 01:23:26
21 loosely phrase that'd it's hard to say if -- it's
22 not like defining the meaning of a word in one
23 sentence. I think there'd be consensus that
24 there's a phenomenon where artists interact with
25 commerce and it's an important concept. 01:23:45

1 Gopnik

2 Q. Did you need specialized training or
3 experience to recognize that the act of that
4 auction was art?

5 A. You do not need specialized training, 01:36:48
6 but you need general experience of the nature of
7 contemporary art and of twentieth century --

8 Q. Do you need to immerse --

9 MR. SPRIGMAN: Wait a second.

10 Q. I didn't read realize you hadn't 01:37:00
11 finished. I'll stop.

12 Do you need to immerse yourself in the
13 world of contemporary art to recognized that
14 Damien Hirst's auction in September of 2008 was
15 business art? 01:37:14

16 A. Yes.

17 Q. Do you know if there is a consensus
18 among art critics as to whether the activities we
19 just talked about -- creating a corporation,
20 public sale of works -- is there a consensus as to 01:37:43
21 whether those activities can be art?

22 MR. SPRIGMAN: Objection.

23 A. Again, there's no consensus among art
24 historians about anything, including whether the
25 Mona Lisa is art, so there cannot be a consensus 01:38:00

Page 131

Gopnik

on this either.

Q. One last activity I wanted to ask you about. Can investing money in the stock market be business art?

01:38:11

A. Yes, there are important cases of that that have been documented.

Q. In what circumstance was investing money in the stock market business art?

A. There was a work I believe in 1968 or '69, several works, in fact, which were shown in an exhibition, and I think one of the was shown at the Whitney Museum of Art, that involved specifically that activity.

01:38:22

Q. As a nonspecialist looking at a business activity, how do I determine whether something is -- that activity is business or business art?

01:38:42

MR. SPRIGMAN: Objection.

A. You would have to look at -- well, as a nonspecialist, as I said, a nonspecialist has no sense of art. Most cultures don't have a concept of art. You already have to know a great deal of contextual information, contextual clues, to understand a painting is art. It's not a category

01:38:56

01:39:13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, LAURIE A. COLLINS, a Registered
Professional Reporter and Notary Public
within and for the State of New York, do
hereby certify:

That BLAKE GOPNIK, the witness whose
deposition is hereinbefore set forth, was
duly sworn by me and that such deposition
is a true record of the testimony given by
the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of September
2022.



LAURIE A. COLLINS, RPR